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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/838,970	04/20/2001	George Daryl Blankenship	LINCP105US	1244
EXAMINER				
GART, MATTHEW S				
ART UNIT		PAPER NUMBER		
3625				

DATE MAILED: 12/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/838,970

Applicant(s)

BLANKENSHIP ET AL.

Examiner

Matthew s Gart

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claims 1-57 are currently pending in the instant application and are presently under consideration.

Declaration Under 37 C.F.R. 1.131

The declaration filed on 11/10/2004 under 37 CFR 1.131 is sufficient to overcome the Spear, U.S. Patent No. 6,486,439 reference. The finality of the rejection of the last Office action is withdrawn.

Claim Rejections - 35 USC §101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 48-54 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The invention as recited in the claims is merely an abstract idea that is not within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter.

Referring to claims 48-53. Mere recitation in the preamble (i.e., intended use) or mere implication of employing a machine or article of manufacture to perform some or all of the recited steps does not confer statutory subject matter to an otherwise abstract idea. "A method for managing welding consumables." mere nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not affect or affect the underlying process.

Referring to claim 54. A computer data signal or a transmission medium per se is not the type of subject matter that is considered statutory. If the signal or transmission medium claim is interpreted as an abstract arrangement "to be transmitted", or as a transmission in transit, rather than a physical signal statically embedded in a physical computer readable medium, the signal claim is considered non-statutory.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sekizawa Patent Application Publication 2003/0212929 in view of Official Notice.

Referring to claim 1. Sekizawa discloses a system for managing printing consumables, comprising:

- A printer having a consumable monitor (Fig. 42A-B and paragraph 0273, "Further, the printer status information window is provided with a percentage display field and a bar graph display field indicating the toner or ink remaining amount contained in any status information table."); and
- A remote system that interfaces to the printer via a network, the remote system adapted to facilitate management of printing consumables for the printer based at least in part upon information received from the consumables monitor (paragraph 0273).

Sekizawa does not expressly disclose a system for managing welding consumables. The Examiner takes Official Notice; data identifying a type of equipment being monitored is not functionally related to the substrate of the system. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms

of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to monitor any type of equipment because such equipment type does not functionally relate to the substrate of the system and merely monitoring equipment of different types would have been obvious. See *Gulack* cited above.

Referring to claim 2. Sekizawa further discloses a system wherein the remote server is further adapted to facilitate ordering and/or purchasing of a consumable based upon information received from the consumables monitor (paragraph 0298, "The operator can make reference to the future consumable statistics in the network printers P for grasping the whole consumable consumption tendencies, thus good use of the statistical information can be made for determining the inventories in a service center, etc., and also for setting up a yearly plan of manufacturing, sales, etc., of consumables from the consumption amounts of the consumables").

Referring to claim 3. Sekizawa discloses a system wherein the consumable is at least one of printer ink. Sekizawa does not expressly disclose wherein the consumable is at least one of wire, gas, flux, contact tip and consumable electrode.

The Examiner takes Official Notice; data identifying a type of consumable being monitored is not functionally related to the substrate of the system. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms

of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to monitor any type of consumable because such consumable type does not functionally relate to the substrate of the system and merely monitoring consumables of different types would have been obvious. See *Gulack* cited above.

Referring to claim 4. Sekizawa does not expressly disclose a system wherein the wire is used for at least arc welding.

The Examiner notes, the wherein clause merely states the result of the limitation in the claim and is given little patentable weight. Claim 4 is merely stating the use of the wire, but not necessarily claiming the arc welding procedure.

Referring to claim 5. Spear does not expressly disclose a system wherein the consumable electrode is used for at least one of arc gauging and manual shielded arc welding.

The Examiner notes, the wherein clause merely states the result of the limitation in the claim and is given little patentable weight. Claim 5 is merely stating the use of the consumable electrode, but not necessarily claiming the arc gauging and manual shielding arc welding procedures.

Referring to claim 6. Sekizawa further discloses a system wherein the ordering/purchasing of the consumable is further based at least in part upon a customer ordering model stored on the remote system (paragraph 0048).

Referring to claim 7. Sekizawa further discloses a system wherein the order/purchasing of the consumable is further based at least in part upon a vendor managed replenishment contract (paragraph 0048).

Referring to claim 8. Sekizawa further discloses a system wherein ownership of the consumables remain with a supplier, distributor or manufacturer until the consumables has been used by the customer (paragraph 0048).

Referring to claim 9. Sekizawa does not expressly disclose a system wherein equipment is leased to a customer and enforcement of the lease is performed at least in part based upon information received from a consumables monitor.

The Examiner notes, the wherein clause merely states the result of the limitation in the claim and is given little patentable weight. Claim 9 is merely stating that the equipment is leased, but not necessarily claiming the equipment leasing procedure.

Referring to claim 10. Sekizawa further discloses a system wherein the remote system is further adapted to enforce welding equipment and welding software maintenance, service or upgrade contract, having terms that a maintenance fee is waived or reduced if order and usage requirement of welding consumables is met.

The Examiner notes, the wherein clause merely states the result of the limitation in the claim and is given little patentable weight.

Referring to claim 11. Sekizawa further discloses a system wherein a customer is invoiced by the remote system for consumables based at least in part upon information received from the consumables monitor (paragraph 0298).

Referring to claim 12. Sekizawa further discloses a system wherein the network employs at least IP (paragraph 0211).

Referring to claim 13. Sekizawa further discloses a system wherein information exchanged between the welder and the remote system includes at least JAVA (paragraph 0017).

Referring to claim 14. Sekizawa further discloses a system comprising at least a LAN (abstract).

Referring to claim 15. Sekizawa further discloses a system wherein the welder interfaces to the remote system via at least a local network (paragraph 0017).

Referring to claim 16. Sekizawa further discloses a system wherein the printer comprises a printer quality monitor providing information regarding printer quality to the remote system (Fig. 35).

Sekizawa does not expressly disclose a system for monitoring welding quality. The Examiner takes Official Notice; data identifying a type of equipment being monitored is not functionally related to the substrate of the system. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to monitor any type of equipment because such equipment type does not functionally relate to the substrate of the system and merely

monitoring equipment of different types would have been obvious. See Gulack cited above.

Referring to claim 17. Sekizawa further discloses a system wherein a customer is invoiced by the remote system for consumables based at least in part upon information regarding printing quality received from the printer quality monitor (Fig. 35).

Sekizawa does not expressly disclose a system for monitoring welding quality. The Examiner takes Official Notice; data identifying a type of equipment being monitored is not functionally related to the substrate of the system. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to monitor any type of equipment because such equipment type does not functionally relate to the substrate of the system and merely monitoring equipment of different types would have been obvious. See Gulack cited above.

Referring to claim 18. Sekizawa further discloses a system wherein the remote system tracks patterns of usage of consumables and/or consumables inventory levels (paragraph 0298).

Referring to claim 19. Sekizawa further discloses a system wherein the remote system facilitates Just-In-Time welding consumables raw material inventory

management to achieve low inventory and/or high service level objectives in production (paragraph 0298).

Referring to claim 20. Sekizawa further discloses a system wherein the remote system, at least in part upon information received from the consumables monitor, is adapted to perform enterprise resource planning, production capacity planning and/or consumables forecast planning by a consumables manufacturer, distributor and/or supplier (paragraph 0298).

Referring to claims 21-36. Claims 21-36 are rejected under the same rationale as set forth above in claims 1-20.

Referring to claim 37. Sekizawa discloses a system for managing consumables, comprising:

- Means for monitoring consumables usage (Fig. 42A-B);
- Means for determining ordering levels for a consumable (Fig. 42A-B); and,
- Means for ordering a consumable based at least in part upon the monitoring consumable usage (Fig. 42A-B).

Sekizawa does not expressly disclose a system for managing welding consumables. The Examiner takes Official Notice; data identifying a type of equipment being monitored is not functionally related to the substrate of the system. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to monitor any type of equipment because such equipment type does not functionally relate to the substrate of the system and merely monitoring equipment of different types would have been obvious. See Gulack cited above.

Referring to claim 38. Sekizawa discloses a system for managing consumables, comprising:

- A consumable monitor component adapted to monitor consumable usage and/or consumable status of a printer (Fig. 42A-B);
- A customer component to facilitate printing resource management based at least in part upon information regarding consumables usage and/or consumable status received from the consumable monitor component (paragraph 0298); and
- A supplier component adapted to receive information from the customer component to facilitate purchasing and/or ordering of printing consumables (paragraph 0298).

Sekizawa does not expressly disclose a system for managing welding consumables. The Examiner takes Official Notice; data identifying a type of equipment being monitored is not functionally related to the substrate of the system. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to monitor any type of equipment because such equipment type does not functionally relate to the substrate of the system and merely monitoring equipment of different types would have been obvious. See Gulack cited above.

Referring to claim 39. Sekizawa further discloses a system wherein the customer component further comprises a materials management component (paragraph 0298).

Referring to claim 40. Claim 40 is rejected under the same rationale as set forth above in claim 3.

Referring to claim 41. Claim 41 is rejected under the same rationale as set forth above in claim 4.

Referring to claim 42. Claim 42 is rejected under the same rationale as set forth above in claim 5.

Referring to claim 43. Sekizawa discloses a system for managing consumables, comprising:

- A consumable monitor for aggregating consumable usage (Fig. 42A-B);
- An inventory replenishment component adapted to receive information from the aggregation component (paragraph 0298);
- A procurement management component adapted to receive information from the aggregation component and to determine, at least based in part upon inventory data, forecast data and/or information associated with a vendor managed

replenishment contact, whether to initiate reordering of the consumables (paragraph 0298);

- A reorder proposal component for generating a reorder proposal once the procurement management component has initiated reordering of the consumable (paragraph 0298);
- An authorization component adapted to receive authorization for the reorder; and (paragraph 0298),
- A supplier component adapted to receive the consumable reorder to facilitate purchasing and/or ordering of consumables (paragraph 0298).

Sekizawa does not expressly disclose a system for managing welding consumables. The Examiner takes Official Notice; data identifying a type of equipment being monitored is not functionally related to the substrate of the system. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to monitor any type of equipment because such equipment type does not functionally relate to the substrate of the system and merely monitoring equipment of different types would have been obvious. See *Gulack* cited above.

Referring to claim 44. Claim 44 is rejected under the same rationale as set forth above in claim 13.

Referring to claim 45. Sekizawa discloses a method for managing consumables, comprising:

- Receiving information regarding consumable usage (Fig. 42A-B);
- Determining whether supply of a consumable has fallen below ordering threshold (paragraph 0298); and,
- Ordering consumable based at least in part upon information received regarding consumable usage (paragraph 0298).

Sekizawa does not expressly disclose a system for managing welding consumables. The Examiner takes Official Notice; data identifying a type of equipment being monitored is not functionally related to the substrate of the system. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to monitor any type of equipment because such equipment type does not functionally relate to the substrate of the system and merely monitoring equipment of different types would have been obvious. See *Gulack* cited above.

Referring to claim 46. Claim 46 is rejected under the same rationale as set forth above in claim 43.

Referring to claim 47. Claim 47 is rejected under the same rationale as set forth above in claim 43.

Referring to claims 48-57. Claims 48-57 are rejected under the same rationale as set forth above in claims 1-20.

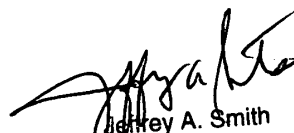
Conclusion

Any inquiry concerning this communication should be directed to Matthew Gart whose telephone number is 703-305-5355. This examiner can normally be reached Monday-Friday, 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

MSG
Patent Examiner
December 14, 2004


Jeffrey A. Smith
Primary Examiner